

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9709 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

UTTAMSINGH PREMSINGH

Versus

HOTEL KARNAVATI

Appearance:

MR T R Mishra for Mr GIRISH PATEL for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/11/98

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner seeks direction to set aside the order dated 31.8.1993 passed by the Labour court, Ahmedabad whereby the original reference (LCA) No.149/87 has been restored.

2. The petitioner was working with the respondent Hotel as a helper from 3.3.80 and later on as an Asstt.Cook. His services were terminated w.e.f.

1.12.84. An industrial dispute was raised which culminated in Reference to the Labour Court, Ahmedabad. The respondent Hotel did not put in appearance. The Labour Court answered the Reference by award dated 20.6.1991 directing the employer Hotel Karnavati to reinstate the petitioner to his original post with full backwages. An application was filed on 2.11.1991 with a prayer to set aside the ex-parte award dated 20.6.1991. The said application was allowed by the impugned order.

3. It is contended by Mr Mishra, learned Advocate appearing for the petitioner that under Rule 26-A of the Industrial Disputes (Gujarat) Rules, 1966, the Court can restore the Reference only on sufficient cause being shown. He has read before me the impugned order. It does not indicate any reason showing sufficient cause. I have also read application Annexure 'B' at page 12. The only reason given in the application is that the Reference was fixed for hearing but due to unavoidable circumstances, nobody on behalf of the Hotel could remain present. It does not indicate as to what was the unavoidable circumstance. Normally it is not for this Court to interfere with the exercise of discretionary power under Section 26-A of the Industrial Disputes (Gujarat) Rules 1966 (for short, 'the Rules'). But in the instant case, I find that there is absolutely no reason given by the respondent for not remaining present before the Labour Court. In view of this, the Labour Court has committed a manifest error in exercising its power under Section 26-A of the Rules of 1966 in restoring the ex-parte award. In absence of sufficient cause, the Labour Court has no jurisdiction to set aside the ex-parte award and restore the reference.

4. In view of the aforesaid, this Special Civil Application is allowed and the order dated 31.8.1993 passed by the Labour Court is quashed and set aside. Rule made absolute.

21.11.98